HIGH COURT OF UTTARANCHAL AT NAINITAL.

Criminal Misc. Application No. 362 of 2005

1. Komal Prashad Jain, S/O late Shri Vimal Prashad Jain,
2. Smt. Rekha Jain, W/O Shri Komal Prashad Jain,
   Both R/) Mohalla Tagan Khatoli, Police Station Khatauli, District Muzaffarnagar (U.P.)
3. Viraj Jain S/O Shri Komal Prashad Jain,
4. Smt. Babita Jain W/O Shri Viraj Jain,
   Both R/O 151/1 Divil Nagar, Radha Nagar, Krishna Nagar, Mehroli, Police Station Kotwali (Narhol Highway), District Mathura (U.P.)
5. Vipin Kumar Jain S/O Shri Komal Prashad Jain,
   R/O 4/1 Corporation I.P.C., Knowledge Park, Banargata Road, Bangalore.

… **Applicants.**

Versus

1. State of Uttaranchal.
2. Smt. Sarika Jain W/O Shri Vipin Kumar Jain,
   D/O Shri Baldesh Jain, R/O 81 Naher Wali Gali, P.S.Kotwali, Dehradun, District Dehradun.

…

Respondents.

With

(1) Criminal Misc. Application No. 366 of 2005,

1. Viraj Jain S/O Shri Komal Prashad Jain,
2. Smt. Babita Jain W/O Shri Viraj Jain,
   Both R/O 151/1 Divil Nagar, Radha Nagar, Krishna Nagar, Mehroli, P.S. Kotwali (Narhol Highway), District Mathura, U.P.

… **Applicants.**

Versus

1. State of Uttaranchal.
2. Smt. Sarika Jain W/O Shri Vipin Kumar Jain,
   D/O Shri Baldesh Jain, R/O 81 Naher Wali Gali, P.S.Kotwali, Dehradun, District Dehradun.

…

Respondents.

(2) Criminal Misc. Application No. 427 of 2005

1. Komal Prashad Jain, S/O late Shri Vimal Prashad Jain,
2. Smt. Rekha Jain, W/O Shri Komal Prashad Jain,
   Both R/) Mohalla Tagan Khatoli, Police Station Khatauli, District Muzaffarnagar (U.P.)

3. Vipin Kumar Jain S/O Shri Komal Prashad Jain,
   R/O 4/1 Corporation I.P.C., Knowledge Park, Banargata Road, Bangalore.

… **Applicants.**

Versus

1. State of Uttaranchal.
2. Smt. Sarika Jain W/O Shri Vipin Kumar Jain,
   D/O Shri Baldesh Jain, R/O 81 Naher Wali Gali, P.S.Kotwali, Dehradun, District Dehradun.

… **Respondents.**

Sri Sandeep Tandon, Adv., learned counsel for the Applicants
Learned A.G.A. for the respondent no. 1.
Sri Arun Mohan Saklani, learned counsel for the respondent no.2.

Dated June 12, 2006.

PC:
(Hon'ble B.S.Verma, J.)

Since all the three applications under Section 482 of the Cr.P.C. have been moved by the in-laws including husband of the reporter Smt. Sarika Jain, wife of Vipin Kumar Jain in connection with the F.I.R. lodged with P.S. Kotwali, Dehradun by the complainant Sarika Jain, in Crime No. 282 of 2004 and parties to the proceedings are the members of same family, therefore, for the sake of convenience, all the three applications are taken up together for decision.

At the outset, it may be mentioned that complainant Smt. Sarika Jain is the wife of accused-applicant Vipin Kumar Jain. Smt. Rekha Jain is her mother-in-law, Komal Prasad Jain is the father-in-law, Viraj Jain is her ***Jeth*** and Smt. Babita Jain is her ***Jethani.*** It is pertinent to mention that an F.I.R. was lodged by the complaint Sarika Jain with Police Station Kotwali, Dehradun, against the accused-applicants, which was registered as Crime No. 282 of 2004, under Sections 498-A. 323, 504 of the I.P.C. as well as Section 3/4 of the Dowry Prohibition Act, wherein the

allegations were made against her in-laws by the complainant regarding cruelty as a result of demand of dowry etc. The investigation of the case was taken up by the police and ultimately, the police found prima facie case against the accused persons and submitted charge-sheet against all the said five persons in the Court of Chief Judicial Magistrate, Dehradun, which was registered as Criminal Case No. 4244 of 2004 (Old No. 1379 of 2004). The record also reveals that the complainant simultaneously filed complaint case in the Court of the Judicial Magistrate Dehradun, which was registered as Complaint Case No. 1820 of 2004 (Old No. 1779 of 2004) on the basis of the F.I.R. lodged by her. In the police *challani* case pending before the Chief Judicial Magistrate, Dehradun the applicants have challenged the summoning order passed by the learned C.J.M. dated 27-9-2004 passed Criminal Case No. 4244 of 2004, State Vs. Vipin Kumar Jain and 4 others, as well as prayed for quashing the charge-sheet submitted by the police after investigation. In the other two applications under Section 482 of the Code of Criminal Procedure (***for short the Code***), the applicants have challenged the summoning order passed by the Judicial Magistrate Dehradun in Complaint Case No. 1820 of 2004 (Old No. 1779 of 2004) Sarika Jain Vs. Vipin Kumar Jain and others as well as the proceedings of the said complaint case.

Both the parties have appeared before this Court.

It was submitted by the learned counsel for both the parties that the parties have entered into compromise and they have settled all the disputes between them in the cases referred to hereinabove.

The record shows that applicants Komal Prasad Jain, Smt. Rekha Jain, Viraj Jain, Smt. Babita Jain and Vipin Kumar Jain put in appearance duty represented by their counsel Sri Sandeep Tandon on the one hand and Smt. Sarika Jain, the complainant, duly represented by her learned counsel Sri Arun Mohan Saklani. Both

the parties were directed to appear before the Additional Registrar of the Court and to verify the compromise arrived at between them.Before the Additional Registrar, both the parties have stated that the matter in between the parties have amicably settled on 09-05-2006 and to substantiate their averment, they have filed compromise deed verified by the parties in the Court of Family Judge. Applicant Vipin Kumar Jain has stated that divorce decree has been granted by the Court and he and the complainant-respondent Smt. Sarika Jain are living separately. The complainant has further verified the contents of the affidavit relating to the compromise between the parties.

Learned counsel for both the parties have submitted that in view of compromise arrived at between the parties, the proceedings pending before the courts below, referred to above, be quashed. In this context, both the parties have placed reliance upon the verdict of the Hon'ble Apex Court reported in ***[(2005) 3 SCC 299],*** wherein it was observed that if criminal proceedings are allowed to continue, the same would amount to an abuse of process of the Court where the parties have entered into compromise and a divorce decree has also been passed between the parties in view of the compromise. In this case, the proceedings under Sections 498-A, 323 and 506 I.P.C. and Section 3/4 of the Dowry Prohibition Act were quashed.

Learned counsel for the parties appearing in the case at hand also placed reliance upon the decision of the Apex Court in the case of ***B.S.Joshi and others Vs. State of Haryana and others [2003 SCC (Criminal) Page 848],*** wherein it was observed as below:-

"There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her on her relatives to satify unlawful demands of dowry. The hyper-technical view would be counterproductive and would act

against interest of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code."

The Apex Court, further, observed that ***"in view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings of FIR or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code."***

In the facts and circumstances of the case and following the ratio of the Apex Court judgments, referred hereinabove, I am of the opinion that the petitions filed under Section 482 Code should be disposed of accordingly.

All the three petitions under Section 482 Cr.P.C. are disposed of in view of the compromise arrived at between the parties. The impugned charge-sheet dated 4-9-2004 submitted by the police before the Chief Judicial Magistrate Dehradun giving rise to Criminal Case No. 4244 of 2004, State Vs. Komal Prasad Jain and 4 others arising out of Crime No. 282 of 2004, P.S. Kotwali, Dehradun, and the summoning order dated 15-2-2005 passed by the Judicial Magistrate, Dehradun including the proceedings in complaint Case No. 1820 of 2004 (Old No. 1779 of 2004) Smt. Sarika Jain Vs. Vipin Kumar Jain and others, are accordingly quashed.

(B.S.Verma, J.)

RCP